

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION**

THE STATE OF TEXAS and

§

THE STATE OF MISSOURI,

§

Plaintiffs,

§

Case No. 2:21-cv-00067-Z

v.

§

JOSEPH R. BIDEN, JR., in his official
capacity as President of the United States
of America, *et al.*,

§

Defendants.

§

PLAINTIFFS' MOTION TO INTRODUCE EXTRA-RECORD EVIDENCE

On June 8, 2021, Plaintiffs filed their Motion for Preliminary Injunction and an appendix containing evidence in support of that motion. *See ECF Nos. 53, 54, 54-1, 54-2.* As explained in their Response in Opposition to Defendants' Motion to Strike, that evidence is properly before the Court, and Defendants' motion to strike should be denied. ECF No. 72.

In Plaintiffs' view, a motion to introduce extra-record evidence is not necessary. *See Shah v. Chertoff*, No. 3:05-cv-1608, 2007 WL 2948362, at *6 (N.D. Tex. Oct. 10, 2007) (Ramirez, M.J.) (holding "that Plaintiffs are entitled to offer their extra-record evidence" by denying a motion to strike without considering a motion from the plaintiffs); *see also Texas v. United States*, No. 6:21-cv-3, 2021 WL 2096669, at *12-*19, *42-*45, *47-*50 (S.D. Tex. Feb. 23, 2021) (Tipton, J.) (relying on extra-record evidence to grant a preliminary injunction without a motion to introduce the evidence).

Defendants, however, have suggested that Plaintiffs are obligated to file such a motion. *See ECF No. 62 at 5.* For the avoidance of doubt, Plaintiffs alternatively move for the introduction of the extra-record evidence contained in their appendix. *See ECF Nos. 54-1, 54-2.* Plaintiffs respectfully request that the Court grant this motion for the reasons explained in Plaintiffs' Response in Opposition to Defendants' Motion to Strike. *See ECF No. 72.*

Dated: July 9, 2021

ERIC S. SCHMITT
Attorney General of Missouri

/s/ D. JOHN SAUER
D. JOHN SAUER, #58720MO*
Solicitor General

JESUS A. OSETE, #69267MO*
Deputy Solicitor General

OFFICE OF THE ATTORNEY GENERAL
Supreme Court Building
207 West High Street
P.O. Box 899
Jefferson City, Missouri 65102
Tel. (573) 751-8870
Fax (573) 751-0774
John.Sauer@ago.mo.gov

Counsel for Plaintiff State of Missouri

*Admitted pro hac vice

Respectfully submitted.

KEN PAXTON
Attorney General of Texas

BRENT WEBSTER
First Assistant Attorney General

JUDD E. STONE II
Solicitor General
Texas Bar No. 24076720

PATRICK K. SWEETEN
Deputy Attorney General for Special Litigation
Texas Bar No. 00798537

/s/ William T. Thompson
WILLIAM T. THOMPSON
Deputy Chief, Special Litigation Unit
Attorney-in-Charge
Texas Bar No. 24088531

RYAN D. WALTERS
Special Counsel
Texas Bar No. 24105085

OFFICE OF THE ATTORNEY GENERAL
SPECIAL LITIGATION UNIT
P.O. Box 12548 (MC-009)
Austin, Texas 78711-2548
Tel.: (512) 463-2100
Fax: (512) 457-4410
patrick.sweeten@oag.texas.gov
will.thompson@oag.texas.gov
ryan.walters@oag.texas.gov

Counsel for Plaintiff State of Texas

CERTIFICATE OF CONFERENCE

I certify that, on July 9, 2021, counsel for Plaintiffs conferred with counsel for Defendants, who represented that Defendants oppose this motion.

/s/ William T. Thompson
WILLIAM T. THOMPSON

CERTIFICATE OF SERVICE

I certify that on July 9, 2021, a true and accurate copy of the foregoing document was filed electronically (via CM/ECF) and served on all counsel of record.

/s/ William T. Thompson
WILLIAM T. THOMPSON